

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Leanne Fornelli	Team: Team # 4	CCRB Case #: 201305640	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 06/01/2013 12:30 PM	Location of Incident: 80th Street between 67th Drive and 68th Avenue	Precinct: 104	18 Mo. SOL 12/1/2014	EO SOL 12/1/2014	
Date/Time CV Reported Tue, 06/25/2013 8:44 AM	CV Reported At: CCRB	How CV Reported: In-person	Date/Time Received at CCRB Tue, 06/25/2013 8:51 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Anthony Wright	21501	935991	104 PCT
2. POM Louis Marinacci	22579	941229	104 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. LT George Hellmer	00000	923940	104 PCT
2. POM Christopher Vingelis	25635	946573	104 PCT
3. POM Jason Rieger	12886	947398	104 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Anthony Wright	Discourtesy: PO Anthony Wright spoke discourteously to § 87(2)(b)	
B.POM Anthony Wright	Abuse: PO Anthony Wright detained § 87(2)(b)	
C.POM Anthony Wright	Abuse: PO Anthony Wright searched the car in which § 87(2)(b) was an occupant.	
D.POM Louis Marinacci	Discourtesy: PO Louis Marinacci spoke discourteously to an individual.	

Case Summary

On June 25, 2013, § 87(2)(b) filed this complaint in-person at the Civilian Complaint Review Board (CCRB). On June 1, 2013, at approximately 12:30 p.m., on 80th Street between 67th Drive and 68th Avenue in Queens, § 87(2)(b) was involved in a motor vehicle accident with two officers from the 104th Precinct. The following allegations resulted:

Allegation A: Discourtesy: PO Anthony Wright spoke discourteously to § 87(2)(b)

§ 87(2)(g)

Allegation B: Abuse of Authority: PO Anthony Wright detained § 87(2)(b)

Allegation C: Abuse of Authority: PO Anthony Wright searched the car in which § 87(2)(b) was an occupant.

§ 87(2)(g)

Allegation D: Discourtesy: PO Louis Marinacci spoke discourteously to an individual.

§ 87(2)(g)

§ 87(2)(b) was offered mediation as a means to resolve his complaint, but he opted for the investigation process.

Results of Investigation

Civilian Statements

Complainant/Victim: § 87(2)(b)

- § 87(2)(b) is a § 87(2)(b)-old Hispanic male who stands 5'8" tall, weighs 145 pounds, and has brown hair and brown eyes. § 87(2)(b)

Photographs

On June 1, 2013, § 87(2)(b) took photographs at the scene of the incident, which he provided to the CCRB via email on July 2, 2013. Photo 1 shows the front of § 87(2)(b)'s car touching the right rear bumper of a black Chevrolet Impala (encl. 4l). Photo 2 shows a right side view of the collision and a dent on the right side of the Impala (encl. 4m). Photo 3 shows the collision from the rear of the Impala (encl. 4n).

CCRB Testimony

On July 1, 2013, § 87(2)(b) was interviewed at the CCRB (encl. 4d-4k). § 87(2)(g)

On June 1, 2013, at 12:30 p.m., § 87(2)(b) was driving alone in his gray 2006 Acura RSX. He planned to pick up his friend, § 87(2)(b) at § 87(2)(b) in Queens, and then go to a nearby shopping mall. § 87(2)(b) had his cell phone in an open compartment near the dashboard and his wallet in the

uncovered center console. On this day, he was wearing a tee shirt and shorts that had six empty pockets; two in front, two in back and one on either side of the legs.

§ 87(2)(b) stopped at a red light on 80th Street at 68th Avenue and proceeded straight when it turned green. He looked at his gas meter because he knew he was running low on fuel and when he looked up, his car was about to collide with an unmarked, black Chevy Impala. He veered to the right and stepped on his brakes to avoid this, but his car hit the Impala's right rear bumper. The two vehicles stayed in the position of contact in the middle of the road.

Two uniformed officers, PO "Marinacci" and PO "Anthony Wright," identified via investigation as PO Louis Marinacci (described as a white male, 5'10" tall, average body build, 30 years old) and PO Anthony Wright (described as a dark-complexioned male, 6'0" tall, muscular body build, black hair, in his late 30s) of the 104th Precinct, exited the vehicle hastily and immediately from the driver's seat and front passenger's seat respectively. PO Wright, who was very angry, began screaming at § 87(2)(b) asking, "what the fuck" he was doing and "why the fuck" he hit the car, and saying to look at what he "fucking" did to the patrol vehicle.

§ 87(2)(b) was in shock, as he had never been in an accident or in trouble with officers.

PO Wright approached § 87(2)(b)'s open window and again asked § 87(2)(b) "what the fuck" he was doing. § 87(2)(b) said, "I'm sorry." PO Wright said, "Get out [of the] the fucking vehicle." § 87(2)(b) unfastened his seatbelt and PO Wright then accused him of not wearing his seatbelt while driving. § 87(2)(b) said, "Sir, I had my seatbelt on, you just told me to exit my vehicle." PO Wright said, "No you didn't. I saw you through my rearview [mirror]." § 87(2)(b) exited his vehicle and said, "Sir, while driving, I did have my seatbelt on." PO Wright said, "No, I was looking through my rearview [mirror] and you didn't have anything. That's another ticket."

PO Wright told § 87(2)(b) to go to the back of his car and place his hands on the trunk, and § 87(2)(b) complied. PO Wright handcuffed § 87(2)(b) and put his hand inside the front right pocket of § 87(2)(b)'s shorts followed by his left front pocket. He then patted down the outside of his back pockets followed by his side pockets. He told § 87(2)(b) to sit down next to the front wheel on the driver's side of his car. § 87(2)(b) had trouble doing this because he was handcuffed, so PO Wright pushed him on his shoulder into a sitting position on the ground. PO Wright entered § 87(2)(b)'s car from the driver's door by leaning inside, but § 87(2)(b) could not see where he looked inside the car, as he was facing the opposite direction.

A driver of a four-door sedan § 87(2)(b) could not recall the make or color) about two cars behind § 87(2)(b) began to scream, "What the fuck is happening? I got to get to fucking work." PO Marinacci instructed the driver to pull over across the street. The driver said he was late for work and PO Marinacci said, "I don't fucking care. Pull over now." The driver (described as a white male with blonde hair, 40 years old) complied. PO Marinacci asked the driver for his license and registration. The driver supplied this information and told PO Marinacci that he was sorry and was late for work. PO Marinacci let the driver go without a summons.

During this time, PO Wright exited § 87(2)(b)'s vehicle while holding § 87(2)(b)'s driver's license, which had been in his wallet. PO Wright had not asked § 87(2)(b) for his driver's license or where it was located. At some point during the incident (he could not recall when), he received it back. PO Wright asked § 87(2)(b) if he was high or drunk and asked "what the hell" he had been doing during the time of the accident. PO Wright re-entered § 87(2)(b)'s vehicle in the same manner as before for two to three minutes.

PO Wright lifted § 87(2)(b) into a standing position and escorted him to the patrol vehicle. PO Wright pushed § 87(2)(b) inside the backseat and slammed the door shut. § 87(2)(b) moved to the middle seat so both officers could see him clearly. The officers re-entered the patrol vehicle. PO Wright complained of his neck hurting and said to § 87(2)(b) "You're getting sued," to which § 87(2)(b) said nothing. PO Marinacci asked, "Should we call the

sergeant in?" PO Wright kept complaining of his neck hurting and then said, "Yeah, call it in." PO Marinacci used the radio to do so. PO Marinacci asked if he should take the handcuffs off and PO Wright said, "No, leave the fucking cuffs on him." § 87(2)(b) did not know why he was handcuffed, as he was compliant with the officers. After two minutes, PO Marinacci told § 87(2)(b) to turn around on the seat and he removed the handcuffs.

The officers told § 87(2)(b) to wait inside his car. § 87(2)(b) re-entered his car and began to cry. While he was waiting, § 87(2)(b) arrived to the scene and said he had been waiting outside his residence when he saw that an accident had taken place and walked over to see what happened.

A marked car arrived with three uniformed officers, identified via investigation as LT George Hellmer (described as a white male, 6'0" tall, 50 years old, gray hair, wearing a white shirt), PO Christopher Vingelis (described as a white male, 5'9" tall, fat body build, 40 years old, short gray-black hair) and PO Jason Rieger (described as a white male, 5'9" tall, slim body build, 40 years old, black hair) of the 104th Precinct. The officers spoke with PO Wright and PO Marinacci, who exited their vehicle. PO Wright complained of his neck hurting from whiplash.

After five minutes of the officers talking and laughing about how bad the damage appeared to be to the patrol vehicle, LT Hellmer came to § 87(2)(b)'s window and § 87(2)(b) told him what happened when the accident occurred. LT Hellmer asked to see § 87(2)(b)'s license and registration, and he provided this information. § 87(2)(b) then exited his vehicle and took the above-referenced photographs at the scene with his cell phone for his insurance company.

LT Hellmer told the officers and § 87(2)(b) to move their vehicles to the side of the road, which they did. An ambulance arrived to the scene. An EMT asked § 87(2)(b) if he was hurt and he said he was not. PO Wright and PO Marinacci spoke to the EMTs, but never entered the ambulance. PO Wright and PO Marinacci then re-entered the patrol vehicle and drove away.

LT Hellmer provided § 87(2)(b) with the police report number and told him how to obtain a copy from his insurance company. He said he knew it was a scary experience for § 87(2)(b) and that § 87(2)(b) was nervous. He then left with PO Vingelis and PO Rieger. § 87(2)(b) waited for his parents, who § 87(2)(b) called. § 87(2)(b) did not receive a summons as a result of this incident. After the incident, § 87(2)(b) received the accident report, which named PO Marinacci and PO Wright and their positions in the patrol vehicle. The report inaccurately stated that § 87(2)(b)'s foot slipped off the brake, which § 87(2)(b) never said.

Witness: § 87(2)(b)

- § 87(2)(b) is a § 87(2)(b)-old Hispanic male.

Phone Statement

On July 11, 2013, § 87(2)(b) provided a phone statement (encl. 5a).

On June 1, 2013, at approximately 12:30 p.m., § 87(2)(b) exited his residence, located at § 87(2)(b) in Queens, when he saw that traffic was developing on § 87(2)(b). § 87(2)(b) stayed outside for about ten minutes, during which time the traffic worsened. § 87(2)(b) went down the street to see what was happening and observed that § 87(2)(b)'s car had hit and dented an unmarked, black Chevy Impala.

When § 87(2)(b) arrived, § 87(2)(b) was exiting the back of the Impala, which was occupied by two uniformed officers, identified via investigation as PO Marinacci (the driver, described as a white male, short hair, 5'11" to 6'0" tall, muscular body build) and PO Wright (the front passenger, described as a medium-toned Hispanic male, dark brown, curly hair, slightly shorter than PO Marinacci, stocky body build). § 87(2)(b) was very nervous and he told § 87(2)(b) how the accident occurred. § 87(2)(b) observed that § 87(2)(b)'s hands

were dirty as if he had been on the ground and his wrists had handcuff marks, but he did not say anything about the officers' treatment of him.

While § 87(2)(b) and § 87(2)(b) were speaking, a driver that was stuck in the traffic behind § 87(2)(b)'s car became irate and began cursing about the traffic. PO Marinacci instructed the driver to pull over. § 87(2)(b) heard the word "fuck," but did not know if the driver or officer said this. After about three minutes, the driver was allowed to leave.

Additional uniformed officers, identified via investigation as PO Vingelis (described as a Hispanic male, stocky body build), PO Rieger (described only as a male) and LT Hellmer (described as a white male wearing a white shirt), arrived in a marked police vehicle. After LT Hellmer completed a police report for the accident, all the officers left at the same time.

Attempt to Contact Civilian

No civilian or officer involved in this incident acquired a name, license plate number or contact information for the driver at whom PO Marinacci allegedly cursed. Without further information, this individual could not be identified and contacted.

NYPD Statements:

Subject Officer: PO LOUIS MARINACCI

- *PO Marinacci is a § 87(2)(b)-old white male who stands 5'7" tall, weighs 185 pounds, and has brown hair and brown eyes.*
- *On June 1, 2013, PO Marinacci was on duty from 9:30 a.m. until 6:05 p.m., was assigned to the SNEU team with PO Wright, was dressed in uniform and using an unmarked, black Chevrolet, number 477.*

Memo Book

PO Marinacci made the following notations in his memo book (encl. 6a-6c). At 12:40 p.m., a RMP accident occurred on 80th Street at the corner of 68th Avenue. Officers were stopped in traffic when they were hit in the rear by 1 male, who was alone in his car. PO Marinacci was transported via EMS to § 87(2)(b). LT Hellmer was on the scene.

Line of Duty Injury Report

A line of duty injury report contains the following information (encl. 6d-6e): On June 5, 2013, PO Marinacci signed the report, stating that he was sitting behind the wheel of an RMP when another car struck it from behind. LT Hellmer also signed this report on June 1, 2013, stating the following: PO Marinacci was stopped for a steady red light when a vehicle travelling behind the unmarked RMP failed to stop and collided with it. PO Marinacci immediately felt pain coming from his neck and was removed to the hospital via ambulance.

Line of Duty Injury Report; Witness Statement

PO Marinacci stated the following in the witness statement section of a line of duty injury report (encl. 6f): PO Wright was sitting in the front passenger seat of an RMP when another vehicle struck it from behind, causing PO Wright to complain and sustain injuries to his neck and back.

CCRB Testimony

On July 24, 2013, PO Marinacci was interviewed at the CCRB (encl. 6g-6j).

On June 1, 2013, at 12:30 p.m., PO Marinacci, the driver, and PO Wright, the front passenger, were fully stopped at a steady red light in their patrol vehicle. Suddenly, without any

sound such as that of tires screeching, the patrol vehicle was hit from behind by another vehicle. The two vehicles stayed in the same position that they were in from the moment of impact until the conclusion of the incident.

PO Marinacci and PO Wright were in shock and in pain and they exited the patrol vehicle immediately. § 87(2)(b) the driver of the vehicle that hit their patrol vehicle, seemed nervous and he was crying. As the officers heard no sound leading up to the accident, they were not sure if § 87(2)(b) was under the influence of any drug or alcohol.

PO Wright approached the driver's side of the car before speaking to § 87(2)(b) PO Marinacci re-entered the patrol vehicle after 30 seconds because he was in pain. While in the patrol vehicle, he was focused on the pain and did not hear the conversation between PO Wright and § 87(2)(b) PO Marinacci did not hear PO Wright say to § 87(2)(b) "What the fuck," "Why the fuck," "Get out of the fucking vehicle," or otherwise curse at him. He did not hear any conversation in regard to § 87(2)(b)'s seatbelt and did not hear PO Wright tell § 87(2)(b) he would receive a summons for his failure to wear one. § 87(2)(b) was never considered under arrest and never did anything for which he could have been arrested.

Throughout the incident, PO Marinacci did not see anything unusual about § 87(2)(b)'s person. While he could not recall what § 87(2)(b) was wearing, he did not at any time observe any bulges on his clothing or anything that resembled a weapon. PO Marinacci was concerned for the officers' safety because he thought § 87(2)(b) could have been under the influence of a drug or alcohol, due to the circumstances of the accident.

PO Marinacci initially said that PO Wright told § 87(2)(b) to exit his car and handcuffed him once he exited because the officers were uncertain whether § 87(2)(b) was sober. No conversation took place between the officers about this, but PO Marinacci knew why PO Wright handcuffed § 87(2)(b) based on protocol and the situation. PO Marinacci later clarified that he did not hear PO Wright ask § 87(2)(b) to get out of his car and he did not see § 87(2)(b) exit his car, but he assumed this happened.

When asked if an officer entered § 87(2)(b)'s vehicle at any time during the incident, PO Marinacci did not answer. His legal representative, Mr. Louis Albert, asked PO Marinacci, "Do you know of any cops entering the car?" PO Marinacci answered no. PO Wright did not search any part of the car.

At some point during the incident, PO Marinacci could not recall when, an individual in a car behind § 87(2)(b) began screaming, "What the fuck is happening? I gotta get the fuck to work." PO Marinacci exited the patrol car and said to the individual, "Take it easy. You got an accident here. You got two cops hurt here." The individual said, "I've got to get to work," and used the word "fuck" in his statements. PO Marinacci said, "Listen, you gotta calm down. There's an accident here. Everybody's waiting in traffic just like you." PO Marinacci instructed the individual to pull over and had him wait for five to ten minutes, before telling him to be careful and allowing him to drive away. PO Marinacci did not issue him a summons or record his information. PO Marinacci did not say to the individual, "I don't fucking care, pull over now," nor did he curse at him at all.

PO Marinacci made no physical contact with § 87(2)(b) during the incident. Besides placing § 87(2)(b) in handcuffs and escorting him to the patrol vehicle, PO Marinacci was unaware of any further physical contact between PO Wright and § 87(2)(b). Two minutes after PO Marinacci entered the patrol vehicle, PO Wright placed § 87(2)(b) in the back of the patrol vehicle in handcuffs. PO Marinacci did not know if § 87(2)(b) was frisked or searched before he was placed inside, and he did not see PO Wright do this.

In the patrol vehicle, PO Wright asked § 87(2)(b) who was crying and upset, what happened. § 87(2)(b) said he did not see the patrol vehicle stop and thought the traffic was still moving. As PO Marinacci did not smell alcohol on § 87(2)(b) and as his speech was coherent,

it was determined that he was not under the influence of any drug or alcohol and his handcuffs were removed. The officers told him to wait on the sidewalk, and he did so. PO Marinacci could not recall how long § 87(2)(b) was inside the patrol vehicle. Neither he nor PO Wright told § 87(2)(b) he was going to be sued. When asked if § 87(2)(b) was being sued as a result of this incident, PO Marinacci did not answer. Mr. Albert then asked PO Marinacci if he was suing § 87(2)(b) and he answered yes.

§ 87(2)(b)'s identification was collected for the accident report, but PO Marinacci could not recall how, by whom or when, except that it was at some point in the middle of the incident. PO Marinacci did not know if § 87(2)(b)'s identification was requested from him or if PO Wright had § 87(2)(b)'s wallet at any time.

A friend of § 87(2)(b), identified via investigation as § 87(2)(b) arrived at the scene, but PO Marinacci could not recall when he arrived. LT Hellmer arrived in a marked police car after PO Marinacci called him via cell phone. LT Hellmer requested an ambulance, which arrived and transported PO Marinacci and PO Wright to § 87(2)(b). As a result of this incident, PO Marinacci suffered whiplash and inflamed muscles to his neck and back. PO Marinacci said he thought PO Wright suffered similar injuries, but there could be more.

Subject Officer: PO ANTHONY WRIGHT

- *PO Wright is a § 87(2)(b)-old black male who stands 5'7" tall, weighs 185 pounds, and has brown hair and brown eyes.*
- *On June 1, 2013, PO Wright was on duty from 9:30 a.m. until 6:05 p.m., was assigned to the SNEU team with PO Louis Marinacci, was dressed in uniform, and using an unmarked, black Chevrolet Impala, number 477. Since the incident, PO Wright has been promoted to the rank of detective.*

Memo Book

PO Wright made the following notations in his memo book (encl. 7a-7b). At 12:40 p.m., a RMP accident occurred at 80th Street and 68th Avenue. The RMP was stopped in traffic when it was hit in the rear by one white male, who was alone. There was transportation via EMS to § 87(2)(b). LT Hellmer was at the scene.

Line of Duty Injury Report

A line of duty injury report contains the following information (encl. 7c-7d): On June 5, 2013, PO Wright signed the report, stating that he was sitting in the front passenger seat of an RMP when another car struck it from behind, causing him to sustain neck and back injuries. LT Hellmer also signed this report on June 1, 2013, stating the following: PO Wright was stopped for a steady red light when a vehicle travelling behind the unmarked RMP failed to stop and collided with it. PO Wright immediately felt pain coming from his neck and was removed to the hospital via ambulance.

Line of Duty Injury Report; Witness Statement

PO Wright stated in the witness statement section of a line of duty injury report (encl. 7e) that PO Marinacci was the operator of a patrol vehicle and when it was stopped at a red light, it was hit in the rear by another vehicle, causing PO Marinacci to sustain neck and back injuries.

CCRB Testimony

On July 26, 2013, and January 15, 2014, PO Wright was interviewed at the CCRB (encl. 7f-7m). § 87(2)(g)

On June 1, 2013, at 12:30 p.m., the patrol car was at a steady red light behind at least one other vehicle when there was a sudden crash at the rear passenger's side. This caused PO Wright to be pushed forward in the front passenger's seat, but no airbag deployed and the patrol vehicle did not hit the vehicle in front of it. PO Wright could not recall how long he was at the light before the crash. He heard no tires screeching before the crash, which caused him to suspect that the driver, § 87(2)(b) was under the influence of alcohol or drugs or the car was stolen because it indicated that § 87(2)(b) was speeding and did not try to brake. PO Wright, who was shocked, exited the patrol vehicle about two seconds after the collision without conversing with PO Marinacci. The patrol vehicle and § 87(2)(b)'s car were still touching.

As a result of the accident, the patrol vehicle was pushed a few feet forward and the rear bumper was crumpled. PO Wright viewed Photos 1, 2 and 3 (encl. 4l-4n) and confirmed that they showed the extent of the damage to the patrol vehicle. He estimated that § 87(2)(b) was travelling 30 or 40 miles per hour at the time of the collision.

In PO Wright's first interview, he said that he asked § 87(2)(b) "What happened? You drinking or anything like that?" PO Wright could not recall what, if anything, § 87(2)(b) who had a blank expression of shock, said in response. PO Wright never cursed at § 87(2)(b) and did not say, "What the fuck," "Why the fuck," or "Get out of the fucking vehicle." In PO Wright's second interview, he could not recall what, if anything, he said to § 87(2)(b).

PO Wright did not initially mention anything about § 87(2)(b)'s seatbelt. After being asked if § 87(2)(b) was wearing a seatbelt, PO Wright said that as soon as he exited the patrol vehicle, he saw § 87(2)(b) trying to put his seatbelt on by grabbing the upper portion of the belt and pulling it across his body. He did not see § 87(2)(b) make any other movements besides this. PO Wright thought § 87(2)(b) was shocked to see uniformed officers exiting an unmarked car, which was why he tried to fasten his seatbelt. He was sure § 87(2)(b) saw his uniform, because § 87(2)(b) looked directly at him. When PO Wright and PO Marinacci went to the driver's side of the car, § 87(2)(b)'s seatbelt was still unfastened.

PO Wright could not recall where PO Marinacci was standing when he was at § 87(2)(b)'s car door. He initially said he could not recall how § 87(2)(b) stepped out of his car, but then said that he asked him to step out and he did so. § 87(2)(b) seemed disoriented, dazed, puzzled and shocked. § 87(2)(b) did not apologize or ask PO Wright if he was okay, which is what PO Wright would have done and what people usually say in PO Wright's experience when they are involved in accidents. § 87(2)(b) appeared to be in his twenties, but PO Wright did not attribute his reaction to his young age.

§ 87(2)(b) exited the car within two seconds of being asked and did not have difficulty getting out of the car or walking. PO Wright could not recall if the driver's door on the vehicle was left open or if anyone closed it. PO Wright tried to talk to § 87(2)(b) but he did not seem to have any answers. PO Wright could not recall exactly what he asked § 87(2)(b) but said he may have asked why he ran into the patrol vehicle, if he was okay, for paperwork, whether he was on drugs or alcohol and why there were no tires screeching before the crash. PO Wright could not recall any responses by § 87(2)(b).

§ 87(2)(b) never did anything he could have been arrested for and was never considered under arrest. The circumstances of the accident were the only reasons PO Wright feared for the officers' safety and thought that § 87(2)(b)'s car was stolen or that he was under the influence of drugs or alcohol. Initially, PO Wright said the circumstances of the accident were the only reasons § 87(2)(b) was handcuffed, but later added that § 87(2)(b) was also handcuffed because he had no answers to PO Wright's questions. PO Wright also mentioned that the location of the incident is a drug-prone location. He did not conduct a Breathalyzer test because officers usually look for indications of a person being under the influence first. He smelled no alcohol on § 87(2)(b) and did not observe anything that indicated that he was under

the influence.

PO Wright looked through the windows of the car and observed nothing that raised his suspicion, such as bottles, that § 87(2)(b) was under the influence. In his first interview, PO Wright said he never reached into § 87(2)(b)'s vehicle, leaned inside or entered it in any way, and never searched any part of the vehicle. In his second interview, he said he put his head inside to look for bottles of alcohol or drugs, but could not recall how far he was able to go in. He looked on the floor and on top of the center console area, but could not recall opening any compartments. He did not find anything illegal or see anything out of the ordinary. He did not touch or move any item. PO Wright could not recall how or when § 87(2)(b)'s driver's license was obtained, but thought § 87(2)(b) provided it to him at some point. PO Wright never had § 87(2)(b)'s wallet.

PO Wright was unsure if § 87(2)(b) did anything for which he could have received a summons. He could not recall if he told § 87(2)(b) that he was going to receive a summons, but he did not ultimately receive one. PO Wright could not recall what, if any, conversation he had with § 87(2)(b) about his seatbelt. He also could not recall if he told § 87(2)(b) that he would be receiving "another ticket" for not wearing his seatbelt. PO Wright did not know why he did not issue § 87(2)(b) a summons for his seatbelt, but thought it was because he went to the hospital. In PO Wright's second interview, he added that it was his prerogative whether to issue § 87(2)(b) a summons.

Nothing on § 87(2)(b)'s person made PO Wright fearful for the officers' safety. PO Wright could not recall any bulges or anything resembling a weapon on § 87(2)(b)'s clothing. As § 87(2)(b) was going to be placed in the patrol vehicle, his waist area was patted down, as this area is usually where people hide guns or knives that are not always visible. PO Wright thought he was the officer to do this, but was not entirely sure. He did not reach into any pockets.

This incident caused traffic delays and crowds to gather. PO Wright could not recall a vehicle being ordered to pull over or PO Marinacci cursing at any individual. PO Marinacci did not say, "I don't fucking care, pull over now."

PO Wright escorted § 87(2)(b) to the patrol vehicle without issue and placed him inside. This was done to investigate whether § 87(2)(b)'s vehicle was stolen, whether his license was suspended, whether he was under the influence and to prevent § 87(2)(b) from fleeing. Initially, PO Wright said he thought § 87(2)(b) might flee because he was incoherent, but later said that he was coherent. PO Wright observed no motions that indicated that § 87(2)(b) was going to flee.

The officers ran the license plate of § 87(2)(b)'s car and determined it was not stolen and ran his driver's license and determined that it was not suspended. PO Wright could not recall what officer did this and if the patrol vehicle had a computer to do this, or if Central was called. § 87(2)(b) was in the patrol vehicle for approximately five minutes. § 87(2)(b) did not say much in the RMP, and PO Wright observed no signs that he was intoxicated or under the influence of any drug. PO Wright did not tell § 87(2)(b) that he was being sued and did not hear PO Marinacci say this. PO Wright is suing § 87(2)(b) but he did not know if PO Marinacci was involved in the lawsuit.

PO Wright was "pretty sure" § 87(2)(b)'s license was returned to him, but he could not recall how or by whom. As § 87(2)(b)'s driver's license was valid and he was not suspected of any alcohol or drug use, or other criminal activity, his handcuffs were removed by PO Marinacci. PO Wright could not recall where § 87(2)(b) went once he got out of the patrol vehicle. Throughout the incident, § 87(2)(b) was compliant and did not resist the officers in any way.

PO Wright did not know what LT Hellmer did when he arrived because he and PO Marinacci were transported via ambulance to § 87(2)(b) within minutes of his arrival. § 87(2)(b) was still at the scene when PO Wright left. As a result of this incident, PO

Wright suffered neck and back injuries, § 87(2)(b)

NYPD Documents

Police Accident Report

Police Accident Report 1703 contains the following information, provided by LT Hellmer (encl. 8a-8b): On June 1, 2013, at 12:30 p.m., on 80th Street at 67th Drive, vehicle 1 was stopped in traffic at a steady red light and was struck from behind by vehicle 2. Driver 2 stated that he did not notice that the light turned red and that vehicle 1 had stopped. Driver 2 further stated that his foot slipped off the brake pedal and he could not avoid the collision.

Event Chronology

The event chronology for job number D13060110996 contains the following information (encl. 9a-9b): On June 1, 2013, at 12:58 p.m., a lieutenant reported a vehicle accident with injuries on 80th Street at 67th Drive and requested an ambulance. At 1:10 p.m., an EMS unit arrived on the scene. At 1:19 p.m., the EMS unit was transporting a patient to § 87(2)(b)

Other Evidence

NYFD Computer Assisted Dispatch

NYFD Computer Assisted Dispatch Report § 87(2)(b) (encl. 11a) contains the event chronology and the names the patients that went to the hospital as PO Anthony Wright and PO Louis Marinacci, but did not name the hospital.

Status of Civil Proceedings

- § 87(2)(b) has not filed a Notice of Claim with the City of New York as of October 2, 2013, with regard to the incident.
- Mr. Dennis F. Meehan from the Affirmative Claims Department filed a Notice of Claim with the City of New York on § 87(2)(b), claiming \$3,437.00 in damages to an NYPD Fleet Services vehicle (encl. 12a-12e).

Civilian Criminal History

§ 87(2)(b) §§ 86(1)(3)&(4) § 87(2)(c)

Civilian CCRB History

This is the first CCRB complaint filed by § 87(2)(b) (encl. 2a)

Subject Officers CCRB History

- PO Marinacci has been a member of the service for seven years and there are two substantiated CCRB allegations against him in CCRB 201104530 for a frisk and question. The Board recommended command discipline and the NYPD issued instructions (encl. 1a).
- PO Wright has been a member of the service for nine years and there are no substantiated CCRB allegations against him (encl. 1b-1c).

Conclusion

Identification of Subject Officers

PO Marinacci and PO Wright acknowledged their participation in this incident.

Allegations Not Pled

§ 87(2)(g)

Investigative Findings and Recommendations

Allegation A: Discourtesy: PO Anthony Wright spoke discourteously to § 87(2)(b)

§ 87(2)(b) alleged that when the accident occurred, the officers immediately exited their patrol vehicle and PO Wright screamed at him, asking, “what the fuck” he was doing and “why the fuck” he hit the car, and saying to look at what he “fucking” did to the patrol vehicle. § 87(2)(b) said that when PO Wright approached his vehicle, he again asked, “what the fuck” § 87(2)(b) was doing and said, “Get out [of the] the fucking vehicle.” § 87(2)(b) was not present for this part of the incident.

In his first interview, PO Wright said that when he exited the patrol vehicle, he said to § 87(2)(b) “What happened? You drinking or anything like that?” In his second interview, he could not recall what he said to § 87(2)(b). He denied, however, making the aforementioned statements or cursing at § 87(2)(b). PO Marinacci said he did not hear PO Wright make these statements or curse at § 87(2)(b) but also said he re-entered his patrol vehicle before PO Wright spoke to § 87(2)(b) and did not hear the conversation between them. LT Hellmer, PO Vingelis and PO Rieger were not present for this part of the incident.

§ 87(2)(g)

Allegation B: Abuse of Authority: PO Anthony Wright detained § 87(2)(b)

It is undisputed that PO Wright handcuffed § 87(2)(b) -old § 87(2)(b) and detained him in the patrol vehicle after § 87(2)(b) rear-ended the patrol vehicle with his car.

§ 87(2)(b) said that when he proceeded after the traffic light turned green, he looked at his gas meter and when he looked back up, he could not avoid colliding with the patrol vehicle, although he tried to veer to the right and step on his brakes. § 87(2)(b) was in shock because he had never been in a car accident or in trouble with the police. After two minutes inside the patrol vehicle, the handcuffs were removed and § 87(2)(b) was told to wait in his car. § 87(2)(b)

§ 87(2)(b) said that when he arrived to the scene, § 87(2)(b) was exiting the patrol vehicle.

PO Wright said that the absence of tires screeching prior to impact indicated that § 87(2)(b) was speeding and did not try to brake, which caused PO Wright to suspect that he was under the influence of alcohol or drugs, or that the car was stolen. PO Marinacci also said there was no sound of tires screeching before the crash, which caused him to think that § 87(2)(b) could be intoxicated.

PO Wright said § 87(2)(b) seemed disoriented, dazed, puzzled and shocked and did not apologize or ask PO Wright if he was okay, which was unusual to PO Wright. After § 87(2)(b) exited the car, PO Wright tried to ask § 87(2)(b) questions (he could not recall what they were, but thought they may have been about the accident, paperwork and § 87(2)(b)'s sobriety), but § 87(2)(b) did not seem to have any answers. Initially, PO Wright said that § 87(2)(b) was incoherent, but later said he was coherent. PO Marinacci said that § 87(2)(b) appeared nervous and was crying. Before PO Wright approached § 87(2)(b)'s car, PO

Marinacci re-entered the patrol vehicle because he was in pain.

The circumstances of the accident were the only reasons PO Wright feared for the officers' safety, as he thought § 87(2)(b)'s car may have been stolen or that he was under the influence of drugs or alcohol. PO Wright handcuffed § 87(2)(b) because of the circumstances of the accident and § 87(2)(b)'s lack of answers to PO Wright's questions. PO Wright did not conduct a Breathalyzer test because he usually looks for indications of intoxication first. § 87(2)(b) did not have difficulty exiting his car or walking, and PO Wright did not smell alcohol on him. Nothing on § 87(2)(b)'s person made PO Wright fearful for the officers' safety and PO Wright observed no bulges or anything resembling a weapon on § 87(2)(b).

PO Wright said he placed § 87(2)(b) into the patrol vehicle without issue to investigate whether § 87(2)(b)'s car was stolen, whether his license was suspended, his sobriety, and to prevent him from fleeing. PO Wright initially said he thought § 87(2)(b) might flee because he was incoherent, but later said he was coherent. He observed no motions by § 87(2)(b) that indicated § 87(2)(b) was going to flee. § 87(2)(b) was not considered under arrest at any time and remained cooperative with the officers throughout the incident.

In the patrol car, the officers ran § 87(2)(b)'s license plate and driver's license and determined they were both valid. After five minutes, the handcuffs were removed and § 87(2)(b) was released from the patrol vehicle. PO Marinacci said that in the patrol vehicle, § 87(2)(b)'s speech was coherent and he did not smell alcohol, so it was determined that he was not intoxicated and the handcuffs were removed. PO Marinacci could not recall how long § 87(2)(b) was inside the patrol car.

LT Hellmer, PO Vingelis and PO Rieger were not present for this part of the incident.

Photos 1, 2 and 3 (encl. 4l-4n) show a dent along the right side of the patrol vehicle's bumper while in contact with the front of § 87(2)(b)'s car.

In the event of accidents involving department vehicles, officers are to request that the drivers remain on the scene until the arrival of a patrol supervisor, Patrol Guide Procedure 217-06 (encl. 0a-0b). Officers must have a reasonable suspicion of criminal activity to justify the seizure of an individual, People v. De Bour (encl. 0c-0m).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation C: Abuse of Authority: PO Anthony Wright searched the car in which § 87(2)(b) was an occupant.

It is undisputed that PO Wright searched § 87(2)(b)'s car. § 87(2)(b) said that while he was handcuffed and sitting next to the driver's side front wheel, facing away from the car, PO Wright leaned inside the driver's door and exited holding § 87(2)(b)'s identification, which was in his wallet in the uncovered center console. PO Wright then leaned inside the car again for two to three minutes. § 87(2)(b) was not present for this part of the incident.

PO Wright said he handcuffed § 87(2)(b) after he was taken out of the vehicle. In his first interview, PO Wright denied leaning inside or reaching into the car in any way. In his second interview, he acknowledged that he leaned his head inside (he could not recall how far he went in) and looked on the floor and on top of the center console area for anything illegal, such as alcohol bottles or drugs, or anything out of the ordinary, which he did not find. He denied opening any compartments or touching any items. PO Marinacci did not see any officer search § 87(2)(b)'s car. LT Hellmer, PO Vingelis and PO Rieger were not present for this part of the incident.

Neither PO Wright nor PO Marinacci could recall how § 87(2)(b)'s identification was obtained, but PO Wright thought § 87(2)(b) provided it to him at some point (he could not recall when). PO Wright denied ever having § 87(2)(b)'s wallet and PO Marinacci did not know if PO Wright ever had his wallet.

Breaching the plane of a car doorway to peer deeply inside the vehicle constitutes a search, People v. Hernandez, 656 N.Y.S.2d 12 (1st Dept. 1997) (encl. 0n-0o). In order for an officer to search a vehicle without a warrant, there must be probable cause to believe that contraband, evidence of a crime, a weapon or some means of escape lies therein, People v. Smith, 949 N.Y.S.2d 472 (2nd Dept. 2012) (encl. 0p-0q).

§ 87(2)(g)

Allegation D: Discourtesy: PO Louis Marinacci spoke discourteously to an individual.

§ 87(2)(b) alleged that when PO Marinacci instructed the driver behind him to pull over, he said to the driver, "I don't fucking care. Pull over now." § 87(2)(g)

Team: Four

Investigator:	_____	_____	_____
	Signature	Print	Date

Supervisor:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date